



September 22, 1999

Ms. Joni Vollman
Assistant General Counsel
Harris County District Attorney's Office
District Attorney's Building
201 Fannin, Suite 200
Houston, Texas 77002-1901

OR99-2667

Dear Ms. Vollman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129350.

The Harris County District Attorney's Office (the "district attorney") received a request for the file for case number 9920546. You have released certain documents to the requestor, but assert that the remaining requested information is excepted from public disclosure pursuant to sections 552.101 and 552.108(a)(3) of the Government Code. We have considered the exceptions you claim and reviewed the submitted documents.

You first contend that the documents you submitted to this office as Exhibit A constitute "work product" that is excepted from public disclosure pursuant to section 552.108(a)(3). Section 552.108(a)(3) provides that information is excepted from public disclosure under the Public Information Act if it is information that is either (A) prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation or (B) if it is information that reflects the mental impressions or legal reasoning of an attorney representing the state. You describe the contents of Exhibit A as consisting of handwritten and typed notes of prosecutors, the cover folder of the prosecutor's files, and the D.I.M.S. sheet. Assuming these documents were either created by an attorney representing the state, or by an individual working at the direction of such an attorney, we agree that the district attorney may withhold the documents contained in Exhibit A pursuant to section 552.108(a)(3).

You further contend that the documents in Exhibit B are excepted from public disclosure pursuant to section 552.101 of the Government Code, which protects

"information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Exhibit B consists of criminal history record information ("CHRI"). We agree that the district attorney must withhold, pursuant to statutory law, all criminal history information obtained from the TCIC and NCIC. The dissemination of CHRI obtained from the NCIC network is limited by federal law. *See* 28 C.F.R. § 20.1; Open Records Decision No. 565 at 10-12 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. Open Records Decision No. 565 at 10-12 (1990). Sections 411.083(b)(1) and 411.089(a) of the Government Code authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release the CHRI except to another criminal justice agency for a criminal justice purpose. Gov't Code § 411.089(b)(1). Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. Furthermore, any CHRI obtained from the Texas Department of Public Safety or any other criminal justice agency must be withheld as provided by Government Code chapter 411, subchapter F. The district attorney, therefore, must withhold any criminal history information obtained from the TCIC and NCIC pursuant to section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Carla Gay Dickson
Assistant Attorney General
Open Records Division

CGD/ch

Ref: ID# 129350

Encl. Submitted documents

cc: Ms. Michelle Morris
6363 San Felipe, #325
Houston, Texas 77057
(w/o enclosures)